

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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JOSEPH J. GENTILE, JR., :
Plaintiff, :
: 21 Civ. 10388 (LGS)
-against- :
: ORDER
SUPERINTENDENT CAPRA, et al., :
Defendants. :
:-----X

LORNA G. SCHOFIELD, District Judge:

WHEREAS, this case was commenced on December 6, 2021, and Defendants have not been served;

WHEREAS, on July 11, 2022, pro se Plaintiff was ordered to show cause by August 10, 2022, why the Court should not abstain from exercising jurisdiction under the *Colorado River* doctrine and why the action should not be dismissed as untimely.

WHEREAS, on August 10, 2022, counsel appeared for Plaintiff and requested an extension of time to file the foregoing declaration, which extension was granted to September 26, 2022. On August 12, 2022, Plaintiff's declaration was received, but it did not include any legal arguments regarding abstention or the statute of limitations.

WHEREAS, on September 29, 2022, it was ordered that, (1) if Plaintiff wished to file an amended complaint before serving Defendants, he shall do so by October 27, 2022, and (2) that Plaintiff shall file a proof of service by November 3, 2022. No such amended complaint has been filed, and no proof of service has been filed.

WHEREAS, on November 7, 2022, Plaintiff was again ordered to serve Defendants and file a proof of service, this time by November 10, 2022. The Order advised Plaintiff that failure to comply with the Order would result in dismissal of the case. No proof of service has been filed. It is hereby

ORDERED that this action is dismissed for failure to prosecute.

The Clerk of Court is respectfully directed to close the case.

Dated: November 16, 2022
New York, New York


LORNA G. SCHOFIELD
UNITED STATES DISTRICT JUDGE